

§218.106

active sonar data gathered (through January 1, 2014) from the watchstanders and pursuant to the implementation of the Monitoring Plans for the Northwest Training Range Complex, the Southern California Range Complex, the Atlantic Fleet Active Sonar Training, the Hawaii Range Complex, the Mariana Islands Range Complex, and the Gulf of Alaska.

(i) The Navy shall comply with the 2009 Integrated Comprehensive Monitoring Program (ICMP) Plan and continue to improve the program in consultation with NMFS. Changes and improvements to the program made during 2010 (as prescribed in the 2009 ICMP and deemed appropriate by the Navy and NMFS) will be described in an updated 2010 ICMP and submitted to NMFS by October 31, 2010, for review. An updated 2010 ICMP will be finalized by December 31, 2010.

§218.106 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations, the U.S. Citizen (as defined by §216.103) conducting the activity identified in §218.100(c) (*i.e.*, the Navy) must apply for and obtain either an initial Letter of Authorization in accordance with §218.107 or a renewal under §218.108.

§218.107 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart, but must be renewed annually subject to annual renewal conditions in §218.108.

(b) Each Letter of Authorization shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.*, mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization shall be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a

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negligible impact on the affected species or stock of marine mammal(s).

§218.108 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under §216.106 and §218.107 of this chapter for the activity identified in §218.100(c) will be renewed annually upon:

(1) Notification to NMFS that the activity described in the application submitted under §218.206 will be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming 12 months;

(2) Receipt of the monitoring reports and notifications within the timeframes indicated in the previous LOA; and

(3) A determination by NMFS that the mitigation, monitoring and reporting measures required under §218.104 and the Letter of Authorization issued under §§216.106 and 218.107 of this chapter, were undertaken and will be undertaken during the upcoming annual period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §§216.106 and 218.208 indicates that a substantial modification, as determined by NMFS, to the described work, mitigation or monitoring undertaken during the upcoming season will occur, NMFS will provide the public a period of 30 days for review and comment on the request.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER.

(d) *Adaptive Management.* NMFS may modify or augment the existing mitigation or monitoring measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the Navy's monitoring from the previous year (either